Interview Summary: Clerk and Deputy Clerk of the Privy Council Panel

Background

The **Clerk** and the **Deputy Clerk of the Privy Council** were interviewed by Shantona Chaudhury, Gordon Cameron, Yves Côté, Alexandra Heine, and Nusra Khan on September 29, 2022. Questions relating to this summary should be directed to Ms. Khan.

This preamble and text contained in square brackets consist of explanatory notes provided by Commission Counsel to assist the reader. Certain documents are referred to in the footnotes to assist the reader but in some cases, they were not shown to or discussed with the panel at the interview.

Janice Charette was appointed Clerk of the Privy Council and Secretary to the Cabinet on May 28, 2022 following her tenure as Interim Clerk, which began on March 9, 2021. Prior to this Ms. Charette served as the High Commissioner for Canada in the United Kingdom. She also served as the Clerk of the Privy Council and Secretary to the Cabinet once before, between October 2014 and January 2016.

Nathalie G. Drouin became the Deputy Clerk of the Privy Council and Associate Secretary to the Cabinet on August 23, 2021. Prior to her appointment, she served as the Deputy Minister of Justice and the Deputy Attorney General of Canada from June 2017 to August 2021.

The Privy Council Office (**PCO**) is the "Department" that supports the Prime Minister and Cabinet. It is the institutional counterpart to the Prime Minister's Office (**PMO**) and supports the development and implementation of the Government of Canada's policy and legislative agendas; coordinates responses to issues facing the Government and the country; and supports the effective operation of Cabinet. PCO fulfills these functions from a non-partisan, public policy perspective.

PCO consists of several secretariats, including the Office of the National Security and Intelligence Advisor (**NSIA**), Intergovernmental Affairs (**IGA**), Operations, Plans and Consultation, and Legislation and House Planning, and Machinery of Government. Senior officials from the Office of the NSIA, the Emergency Preparedness and COVID-19 Recovery Secretariat (**EP**), and IGA were separately interviewed by the Commission. For greater clarity, this summary should be read in conjunction with the summaries of those interviews as well as the PCO Institutional Report.

Relationship with PMO

A critical function of PCO is to keep a watching brief across government affairs to monitor events taking place or identify potential issues that might need a response. To perform this function, the Clerk, Deputy Clerk and Deputy Secretaries to the Cabinet maintain close relationships with senior officials across all federal departments, Cabinet Ministers, PMO and the Prime Minister himself (**PM**).

Briefings to the Prime Minister

Generally, the Clerk meets with the PM once a week for a structured bilateral meeting that is also attended by the PM's Chief of Staff (**COS**). The Deputy Prime Minister, Chrystia Freeland, usually attends this bilateral every second week.

The Clerk and Deputy Clerk also provide an oral "pre-brief" to the PM in advance of every Cabinet meeting as well as issue-specific briefings on an *ad hoc* basis. The COS attends these briefings.[1]

Written Communications

Ms. Charette explained that there are several types of written notes provided by officials at PCO to the PM. These include Decision Notes, Information Notes, Scenario Notes and Annotated Agendas. Decision Notes contain formal advice and recommendations and require the signature of the Clerk. Ms. Charette noted that Ms. Drouin, as the Deputy Clerk, is the only other official with authority to sign off on a Decision Note.

By contrast, Information and Scenario Notes consist primarily of factual information and policy background. Some may contain limited analysis in particular policy areas. These documents are often provided directly by PCO officials to the PM via the PMO. They do not require the Clerk or Deputy's Clerk's signature. Ms. Charette noted that Information Notes or Scenario Notes that may contain some policy analysis are sometimes provided directly to the PMO by, for example Michael Vandergrift, Deputy Minister Intergovernmental Affairs and the NSIA, Jody Thomas. [For more information, consult the IGA Panel Interview Summary]. Not many Information Notes were prepared by EP, in this period given the nature of their work.

[1] SSM.CAN.00006737_REL and SSM.CAN.00006738_REL. These documents were not referred to during the interview.

Ms. Charette and Ms. Drouin do not communicate with the PM via email or text message. For verbal or day-to-day updates, Ms. Charette tends to call the PM's Chief of Staff or can reach the PM through his Executive Assistant. Ms. Drouin added that all PCO Deputy Secretaries are in regular communication with their respective interlocutors at PMO. She gave the example of the NSIA's relationship with the COS and that of Deputy Minister IGA's relationship with John Brodhead, Director of Policy at PMO. Internally, PCO staff tend to communicate by many different methods, including Blackberry Messenger.

Ms. Charette explained that few formal documents were prepared for the PMO during the events leading up to and during the invocation of the *Emergencies Act*. She clarified that Weekly Information Notes prepared by the PCO for the weeks ending February 11, 18 and 25th did not refer to the protests, which were discussed in special, dedicated channels. However, the Weekly Information Note of February 4 did have a brief description of the Coutts blockade.[2] She explained that the purpose of Weekly Information Notes, which are distinct from the briefing products mentioned above, is largely to report on matters that may not have the PMO's attention.

Normally, PCO would prepare a Scenario Note for the PM's review in advance of every Cabinet or Cabinet Committee meeting. Because of the time pressures throughout January and February [the period in which Canada was responding to both the protests and the situation in Ukraine], PCO did not prepare formal Memoranda to Cabinet, as it would in the ordinary course. PCO prepared Scenario Notes for the Cabinet Meetings; a Chair's Note or speaking points for the meetings of the Cabinet Committee on Safety, Security and Emergencies (**SSE**); and Annotated Agendas for the meetings of the Incident Response Group (**IRG**) relating to the protests and *Emergencies Act*.[3]

Ms. Charette further recalled that given the Omicron wave, the default was remote work at the time of the protests. Nearly all communications were occurring remotely.

Early Activity Relating to the Protests

Ms. Charette noted that the first time she was advised of the planned convoy in Ottawa was on January 24, 2022, during a routine meeting with all Deputy Secretaries to the Cabinet and equivalents.

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[2] SSM.CAN.NSC.00002825.

[3] See for example, Annotated IRG Agenda, February 12, SSM.CAN.0007559_REL; Annotated IRG Agenda, February 13, SSM.CAN.0007560_REL; SSE Speaking Notes, February 3, SSM.CAN.00008677_REL; SSE Speaking Notes, February 8, SSM.CAN.00008678_REL. These documents were not referred to during the interview.

The Crisis Management Cell (**CMC**), an internal security unit at PCO, set up a monitoring program and began disseminating reports to PCO staff on the situation in Ottawa. [PCO gave a security briefing to PMO on January 28, 2022.[4]]

Ms. Charette recalled that the first in-depth conversation she had with the PM about the Convoy was on Sunday January 30, when it appeared that protestors in Ottawa were not going to leave. At that point, the focus was business continuity and the safety of employees and Parliamentarians.

Internal Meetings

Ms. Charette explained that she relied heavily on the NSIA and Assistant Secretary to the Cabinet, Security and Intelligence Michael MacDonald (**ASC MacDonald**) to collate information across government departments pertaining to the convoy. The NSIA chaired meetings of the Deputy Ministers' Operations Committee (**DMOC**); ASC MacDonald chaired meetings of the Assistant Deputy Ministers, National Security Operations Committee (**ADM NS Ops**). [ADM NS Ops first met in relation to these events on January 26 and DMOC first met in relation to these events on January 31. Both committees met on almost daily basis thereafter]. The Clerk and Deputy Clerk received constant briefs from the NSIA about the information gathered at these meetings.

In addition, Deputy Secretary to the Cabinet, Emergency Preparedness and COVID-19 Recovery Jacqueline Bogden (**DSC Bogden**) led daily briefings with implicated Ministers. These were short, factual updates for Ministers.[5] [DSC Bogden chaired briefings that included typically included the Ministers of Transport, Public Safety, Emergency Preparedness, Intergovernmental Affairs daily between January 27 and February 18. The Minister of Justice and the President of the Treasury Board participated at times.]

Early Provincial Engagements

Ms. Charette noted that many Ministers were meeting with their provincial counterparts soon after the first weekend of protests on January 29 and 30, 2022. She gave the example of the trilateral meetings between the City of Ottawa, the Province of Ontario and the federal government convened by the Ministers of Public Safety and Emergency Preparedness [these meetings took place on February 7, 8, and 10.] She noted that

[4] SSM.CAN.00000148_REL.

[5] SSM.CAN.00000148_REL.

officials from Ontario were invited but did not attend. She also referenced the work of Deputy Minister Vandergrift in this area.

Engaging the Cabinet Process

Ms. Charette and Ms. Drouin recognized the need to intensify the governance process in early February as the situation escalated in Ottawa and other locations, and the protest gained traction in the press, amongst Ministers during their briefings, and in formal and informal conversations between senior government officials.

Ms. Drouin gave examples of this escalation including the City of Ottawa's declaration of emergency on February 6, the granting of a civil injunction by the Superior Court in Ottawa on February 7, the increase in counter-protests organized by the residents of Ottawa, and the blockades at ports of entry in Coutts, Alberta and Windsor, Ontario. Ms. Drouin added that many Ministers and members of parliament (**MPs**) began to ask questions about the potential role of the federal government in resolving the protests, given their impact on Parliament and at international border crossings. Ms. Drouin recalled explaining that the jurisdiction in these places was complicated: federal jurisdiction ends at the boundaries of the Parliamentary precinct in Ottawa and the ports of entry. Both Ms. Drouin and Ms. Charette noted there was a palpable sense of a loss of confidence in public institutions particularly amongst the residents of downtown Ottawa that needed to be addressed. Ms. Drouin added that she perceived there was a need to demonstrate that the government was taking action, given the direct impact on MPs, many of whom who were being escorted to and from Parliament Hill and facing threats online. This was reinforced by the level of international attention that the protests were receiving by February 10.

The witnesses noted that officials from Transport Canada and Public Safety were actively reaching out to their counterparts in Ontario and other provinces to try and find a way to resolve the situation.

During the week of February 6, 2022, Ms. Drouin and Ms. Charette had several calls with the Minister of Emergency Preparedness, Bill Blair (Minister Blair) and the Minister of Public Safety, Marco Mendicino (Minister Mendicino) about the protest. This alerted them to the need for a forum to discuss the protests at the Ministerial level. Ms. Charette added that the PM also discussed the situation with Ministers Blair and Mendicino in this period.

SSE Committee Meetings

[Minister Blair, as the President of the Queen's Privy Council for Canada, convened a meeting of the Cabinet committee on Safety, Security and Emergences (**SSE**) on

February 3, 2022 at which the Convoy protests and blockades were discussed for the first time. The issue was discussed again at SSE meetings on February 6 and February 8, 2022.]

Ms. Charette explained that she generally does not attend Cabinet committee meetings. The exception is where there is a possibility that an issue before the committee may evolve into the requirement for a decision from the PM. She attended the February 6 SSE meeting to gain an understanding of Ministers' concerns in respect of the protests, and the level of government action and coordination necessary for a federal response.

The IRG Meetings

On February 9, 2022, after a meeting with officials from PCO, PMO and Ministers Blair and Mendicino, Ms. Charette determined that the time had come for more formal discussions of federal support for the management of the protests. She also wanted to ensure immediate and effective deployment of all federal resources to support the police of jurisdiction in Ottawa [the Ottawa Police Service (**OPS**).

The next morning, Ms. Charette recommended to the PM that he convene the IRG [in place of the discussions at SSE]. In her view, the PM needed a forum in which to receive information in-person, to deliberate with his Ministers, and to make decisions in respect of the protests. [The IRG serves as a dedicated forum in the event of a national crisis or during incidents elsewhere that have major implications for Canada. It is responsible for coordinating a prompt federal response to an incident, and making fast, effective decisions. IRG is chaired by the Prime Minister and has no fixed membership: as a working group of Ministers, membership may consist of relevant Ministers and senior government leadership, as needed, based on the nature of the incident. The PM convened the first IRG meeting relating to the Convoy on February 10. Subsequent meetings were held on the 12, 13, and 16, and daily thereafter until February 23. [Normally, a Cabinet Committee is not a decision-making body. Because the IRG was chaired by the PM, however, it could make decisions.]

Call with Opposition Leaders

Ms. Charette attended the call between the PM and Opposition leaders on February 10, 2022.[6] The purpose of this call was to give the Opposition leaders an update on the Government's reading of the situation in Ottawa and across the country. During the protests up to that point at least one of the opposition parties did not share the same view

[6] SSM.CAN.00000148_REL.

and the public messaging was different and more encouraging to protesters. The PM was trying to convey the importance of consistent messaging particularly with respect to the illegality of the protests and that the activities posed a problem for safety and the economy.

Ms. Charette stated that the possible use of emergency legislation was not raised during this call, either by the PM or by any of the attendees.

The Decision to Invoke the EA

Use of Emergency Legislation

Ms. Charette noted that the potential use of emergency legislation was first raised at the February 12 IRG, where Ministers contemplated all options for federal assistance available under existing legislation as well as under special legislation. These options were captured in the IRG Tracker as "Track 1" and "Track 2" options, respectively. [The IRG Tracker is a table included in the IRG Minutes. [The Minutes comprise a package of the official agenda, participant list, minutes and any documents circulated by the committee's secretariat to the participants for the meeting.] It first appears in the Minutes of the February 12 IRG Meeting. It records the evolution of issues and action items arising and developing at the IRG meetings.[7]] Track 2 options included the use of the *Emergencies Act* in particular.

Ms. Drouin added that the federal government had previously considered invoking the *Emergencies Act* in 2020 to manage the COVID-19 pandemic. Because of her prior role as the Deputy Minister of Justice, Ms. Drouin was familiar with the legal opinions and analyses with respect to the thresholds under the Act that the Department of Justice (**DOJ**) had prepared in that context. She leveraged these products and her own knowledge of the *Emergencies Act* for discussion in the IRG meetings.

Invocation of the *Emergencies Act*

Ms. Charette explained that the primary purpose of the IRG meetings was to ensure that the PM received advice from all of the implicated Ministers as well as operational updates from all of the relevant senior officials and heads of the implicated agencies. He needed to hear from the Attorney General and the Deputy Attorney General as to legal options available, including the legal thresholds for invoking the *Emergencies Act*, from the agencies about the situation they were seeing. In addition, the IRG was to serve as a

[7] SSM.NSC.CAN.000000214_REL.

record of all of the deliberations and inputs considered by the PM prior to the Governor in Council invocation of the Act. Ms. Charette noted that the IRG Tracker reflects the extensive list of options proposed by senior officials and considered by Cabinet. Ms. Drouin recalled that PCO considered options as varied as shutting down cell towers, shutting down gas stations, and even deploying federal employees with commercial licenses to remove trucks entrenched in Ottawa. She recalled losing hope that local police forces in Ottawa and Windsor were capable of executing their operational plans as time went on and no concrete police actions materialized. She clarified that neither she nor the Clerk reviewed police plans because law enforcement agencies operate independently of government.

Invocation of the *Emergencies Act* was discussed at several meetings occurring on February 13. The invocation was first discussed at the IRG, then at the full Cabinet meeting that evening, followed by a Caucus call. At the Cabinet meeting, Cabinet determined that a meeting of the First Ministers to receive their formal positions should be held before a final decision on the invocation of the *Act* was reached. [The Prime Minister convened a First Ministers' Meeting (**FMM**) on February 14, 2022 to consult with the provinces and territories on the invocation of the *Emergencies Act*.]

Ms. Charette explained that after the FMM, she brought together all the advice, taking everything into account, and provided a memorandum to the Prime Minister for decision setting her recommendation to invoke the *Emergencies Act* and providing the basis for that recommendation.[8] On February 14, 2022, the Governor in Council directed that a proclamation be issued pursuant to subsection 17(1) of the *Emergencies Act* declaring that a public order emergency exists throughout Canada that necessitates the taking of special temporary measures for dealing with the emergency.

The Legal Threshold: Threat to the Security of Canada

[The panel was asked to explain the circumstances that constituted a threat to the security of Canada, as set out in section 16 of the *Emergencies Act*. Section 16 of the *Emergencies Act* defines a public order emergency as one that "arises from threats to the security of Canada and that is so serious as to be a national emergency." It further provides that the phrase "threats to the security of Canada" has ''the meaning assigned by section 2 of the *Canadian Security Intelligence Service Act*".] Ms. Charette and Ms. Drouin stated that it was especially the combination of the economic and public safety impacts of the protests that, in their view, constituted a public order emergency.

[8] SSM.NSC.CAN.00003224_REL.

Threats to Economic Security

Ms. Drouin and Ms. Charette explained that economic disruptions caused by the blockades and protests threatened the economic security and safety of Canadians. Ms. Drouin noted that in her view, a threat to economic safety can be threat to security, and that economic disruptions can be detrimental to people's health and safety. It is a very serious threat. She noted that the protests caused economic distress for many people. In Ottawa, businesses were forced to close during the protests and some employees were threatened for wearing masks. The blockade of the Ambassador Bridge disrupted the flow of trade between Canada and the United States. This blockade was of significant concern to them, because the Ambassador Bridge is the largest port of entry in Canada and is a critical component of Canada's trade relationship with the United States and key to the supply chain. Food and livestock come into Canada through the ports of entry. There was a threat to the cross-border movement of healthcare workers. Jobs depend on trade across the border and workers were under distress by being unable to work. Both Ms. Charette and Ms. Drouin noted that the Ambassador Bridge marked a change in how the Premier Ford and the province of Ontario reacted to the protests, due to the impact of that blockade on Ontario's economy. The panel also noted that it took extraordinary resources for law enforcement to clear that blockade.

Threats to Public Safety

The panel further explained that they received an increasing number of reports of possible violence or threats of violence as the protests wore on. Law enforcement officials were being threatened when they tried to enforce the law. Children were being used as shields in order to prevent enforcement. Ms. Charette cited the discovery of a firearms cache in Coutts, Albert on February 14, and the reported theft of weapons in Peterborough, Ontario on February 13 as examples of security threats. She explained although she did not know at the time whether these events were related to the protests, she and her staff felt the need to take these reports seriously and plan for the worst-case scenario. There was a palpable threat of violence from many sources including, in Ottawa as residents began to organize counter-protests.

The events had a cumulative effect. Trust and confidence in democratic institutions and the government's ability to do its job were being undermined. There was public unrest. The threat had grown beyond the ability to end the blockades in a sustainable and durable way; extraordinary resources were required to clear Windsor, which diverted the blockade to Bluewater, raising concerns about the number of resources available. These were factors in the assessment that a national emergency existed.

The considerations also included the advice from CSIS and the RCMP that the use of emergency legislation risked further inflaming extremist actors.

Measures Taken under the *Emergencies Act*

Ms. Drouin added that in addition to her view that there existed a public order emergency, she took comfort in the fact that the regulations proposed by the government were time-limited and purpose-made. Neither set of regulations usurped provincial authorities but added to them. [Subsection 19(1) of the *Emergencies Act* provides that, while a declaration of public order emergency is in effect, the Governor in Council may make orders or regulations that the Governor in Council believes on reasonable grounds are necessary for dealing with the emergency. The *Emergency Measures Regulations* and the *Emergency Economic Measures Order (***EEMO**) were made by the Governor in Council on the recommendation of the Minister of Public Safety.]

She explained that, because of all of the pre-invocation work done across the federal government, PCO and the Department of Justice (**DOJ**) had a very good sense of the legislative gaps that existed and the extra tools needed to effectively deal with the situation. Both the EEMO and the *Emergency Measures Regulations* were purposefully crafted to respond to these gaps. She gave the example of the gap in legislative authorities to clear trucks parked on Wellington Street in Ottawa and the gap in financial regulation tools to address crowdfunding. Ms. Drouin noted that although some enforcement tools were already in place under existing authorities, these tools were spread out across legislation such as the *Criminal Code*, provincial legislation, and municipal bylaws, and were not all equally available in all jurisdictions. In her view, the value of the *Emergencies Act* was that it permitted the government to craft in a single package purpose-built, tailor-made regulations that were available for use in all jurisdictions.

The panel also noted that the measures were crafted to be temporally and geographically limited. Although the provisions of the *Emergencies Act* have national application, the measures adopted were designed to be operationalized only in the regions where they were necessary. Ms. Charette gave the example of the deployment of RCMP officers and compulsion of commercial truck operators [under sections 10 and 7 of the *Emergency Measures Regulations*, respectively] which were used in Ottawa only. Ms. Drouin noted that exclusion of some provinces, however, was not possible given the need for the regulation of the funds raised by protestors. She added that section 2 of the *Emergency Measures Regulations* [prohibiting public assembly that may reasonably be expected to lead to a breach of the peace] was drafted including for the purpose of responding to

protests and blockades that might pop up in other areas or re-appear after initially being cleared.

Ms. Drouin recalled that there was significant confusion about the limited application of the *Emergency Measures Regulations* on the part of provincial officials. For this reason, she was asked to assist with the speaking notes for the FMM and subsequent meetings of the Deputy Ministers of Intergovernmental Affairs to explain the operation of the regulations, given her previous experience.[9]

The Enforcement Gap

Ms. Drouin explained that PCO was generally aware of the operational challenges facing law enforcement authorities in Ottawa. RCMP Commissioner Brenda Lucki provided updates about on-the-ground police activities at the DMOC meetings. Commissioner Lucki was also asked whether the tools available to the RCMP were agile enough to support police operations in Ottawa. Ms. Drouin recalled one conversation in particular in which she and Commissioner Lucki discussed the inefficient deployment of RCMP officers to support police agencies in Ottawa, given the fact that, in Ontario, RCMP officers do not *de facto* have the authority to enforce provincial statutes, orders or municipal bylaws. A designation as special constable under the Ontario *Police Services Act* was required for RCMP members to be empowered to do so. Ms. Drouin noted that Commissioner Lucki did not otherwise advise or advocate for the adoption of particular measures under the *Emergencies Act*.

Ms. Drouin further explained that Commissioner Lucki often raised the existence of police plans developed by the OPP and OPS at the DMOC meetings, but over time, Commissioner Lucki grew frustrated with the lack of action by local police agencies. This frustration was shared by Ms. Drouin and Ms. Charette who felt that existing authorities, such as municipal bylaws for instance, were simply not being used to clear the protests in Ottawa. Ms. Charette noted the need to respect the police independence doctrine in respect of operational decisions added to these tensions. For instance, she recalled being surprised that the RCMP could not clear protests and encampment structures erected on federally-owned land such as Confederation Park in Ottawa.

The Intelligence Gap

The panel explained that another gap in federal policy that was identified in the course of the protests was the lack of federal authorities for the monitoring of social media for

[9] SSM.CAN.000000109_REL. This document was not referred to during the interview.

intelligence purposes. Ms. Charette recalled that social media played a significant role in mobilizing protestors. Misinformation and disinformation were feeding the phenomenon and being amplified, not just on the domestic side but also internationally including by high profile US politicians. Ms. Charette tasked the NSIA and her staff to develop informal tools for social media monitoring. She recalled that the Intelligence Assessment Secretariat (**IAS**) developed "OSINT" briefs for this purpose even though it was not the type of product normally prepared by IAS. [Open--source intelligence refers to data gathered from publicly available sources. "OSINT" is the term in intelligence circles.]

Ms. Charette noted that PCO previously recognized the need to address this issue during the 2021 federal election, during which the PM and candidates from all parties received a heightened amount of violent threats, including online. Ms. Drouin remarked that although Canada is well equipped to respond to online foreign interference in the electoral context, this is not the case for the monitoring of domestic media. She noted this was an especially difficult area for policy and regulation.

The Engagement Proposal

Ms. Charette explained that one tool for resolving the protests that was explored early on was direct engagement with the protestors in Ottawa by the federal government. She learned on January 26 that the City of Ottawa and OPS had already been engaging with protestors to organize the logistics of the protest. She noted that Deputy Minister of Public Safety, Rob Stewart and the NSIA were in direct contact with the City of Ottawa in the first two weeks of the protests. [The NSIA spoke with officials from the City of Ottawa on February 5; the NSIA and DM Stewart spoke with officials from the City on February 6, 7, and 9, 2022.[10]] Ministers Blair and Mendicino became involved in conversations with the City later on.

Ms. Charette explained that DM Stewart developed a proposal for a federal interlocutor to engage with the leadership of the Ottawa protestors about their demands relating to the vaccine mandate. However, by the third week of the protests, there was a debate among officials about direct engagement with protestors. Ms. Charette recalled that many questions about the organization and leadership of the protests had arisen by this point. She stated that she advocated for this option to be placed before the Ministers at the February 12 IRG, as she believed all options should be on the table for the Ministers' consideration. When asked whether she used the phrase "green light" in an email to the

[10] SSM.CAN.00000148_REL.

PMO to refer to the inclusion of the Proposal on the agenda, or the merits of the Proposal itself, Ms. Charette stated she could not recall.[11]

The Decision to Revoke the Declaration of a Public Order Emergency under the *Emergencies Act*

Ms. Drouin noted that the PM convened an IRG every day after the invocation of the Act until the revocation of the public order emergency on February 23, 2022. PCO prepared, for the purposes of the daily IRGs, factual situation reports from the NSIA and other agencies; a document tracking all actions taken under the new authorities [this document is called the "Concrete Actions Tracker," and appears in the IRG Minutes for February 16-23] and proposed criteria for the legal standard for revocation under the Act.[12] After invocation, PCO also solicited input from departmental officials about their use and application of the new authorities under the *Emergencies Act*.[13]

Ms. Charette considered many factors before formally advising the PM that revocation of the Act was appropriate. There was also the time needed for the completion of the police operation in Ottawa, and the added need to ensure that further protests did not materialize, in Ottawa or elsewhere. Ms. Drouin explained that once the tools were in place, agencies including the RCMP wanted to ensure they were not revoked prematurely. However, Ms. Charette indicated that she received information indicating the advice from police agencies that the emergency authorities were no longer necessary and that the situation in Ottawa had stabilized on Wednesday, February 23. The IRG was meeting every day between February 16 and February 23 and receiving updates about the situation and was satisfied by February 23 that the *Emergencies Act* measures were no longer necessary. On February 22, Ms. Charette provided the PM with a formal recommendation, in writing, that the declaration of public order emergency was no longer required.[14] The Governor in Council issued the proclamation revoking the declaration of public order emergency on February 23, 2022.

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[11] SSM.NSC.CAN.00002859_REL.

[12] SSM.CAN.000000429_REL. This document was not referred to during the interview.

[13] PB.CAN.000001415_REL and PB.CAN.000001416_REL. These documents were not referred to during the interview.

[14] SSM.NSC.CAN.00003227_REL.

Enforcement Data

The panel noted that PCO did not collect specific enforcement data relating to sections 2, 7 or 10 of the *Emergency Measures Regulations* other than what is contained in the Concrete Actions Tracker. Ms. Drouin explained that enforcement data relating to these provisions was likely collected by the RCMP, or other police agencies such as OPP and OPS. She gave the example of enforcement data under the EEMO, which was collected and publicly released by the RCMP.[15] Ms. Charette also noted anecdotal evidence of the deterrent effect of the measures.

The Section 58 Explanation and the Consultation Report

The panel explained that the Explanation pursuant to subsection 58(1) of the *Emergencies Act* was collectively drafted by PCO with input from DOJ and the many implicated departments. Ms. Drouin indicated that she reviewed the Explanation, provided input and gave the final sign off prior to its tabling before the House of Commons and the Senate. Ms. Charette noted that the Report to the Houses of Parliament: *Emergencies Act* Consultations was also a collective report drafted by the IGA Secretariat,[16] and that it was approved by Ms. Drouin. [As required by subsection 58(1) of the *Emergencies Act*, the Explanation and Consultation Report were tabled in the House of Commons on February 16, 2022 and the Minister of Public Safety moved the motion for confirmation of the declaration of emergency on February 17, 2022. The Explanation and Consultation Report were tabled in the Senate on February 21, 2022 and the motion for confirmation was moved by Senator Gold, the Government Representative in the Senate, on February 22, 2022.]

Lessons Learned

The panel identified two areas that, in their view, could be considered for legislative reform. The first is policing jurisdiction over the Parliamentary Precinct and the National Capital Region generally, as well as jurisdiction at ports of entry. There must be consideration of the definition and adequacy of the ability to protect critical infrastructure from threats. The second is the adequacy of social media monitoring and the regulation of misinformation, disinformation, and online violent rhetoric, as well as strengthening Canada's toolkit around foreign interference. They also spoke of the need to attend to, strengthen and protect the bonds of social cohesion in the country and restore confidence

[15] SSM.CAN.00002430_REL. This document was not referred to during the interview.

[16] SSM.CAN.00002388_REL and SSM.CAN.00002389_REL. These documents were not referred to during the interview.

in the institutions of our democracy. Finally, both the Clerk and the Deputy Clerk commented on the evolving nature of national emergencies and the need to develop flexible federal emergency legislation.